


CLAIM OF: ATLANTA FEDERATION OF  
MUSICIANS, THROUGH ITS  
ATTORNEY,  
ROBERT WITCHER, ESQ  
MORRIS & WITCHER  
Suite 414  
1447 Peachtree Street, NE  
Atlanta, Georgia 30309

For damages alleged to have been sustained when from a  
sewer backup on January 22, 2008 at 551 Dutch Valley  
Road.

THIS ADVERSED REPORT IS APPROVED

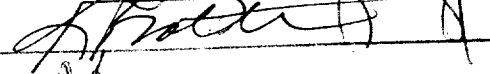
BY:   
JERRY L. DELOACH  
DEPUTY CITY ATTORNEY

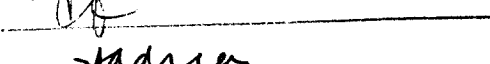
## ADVERSE REPORT

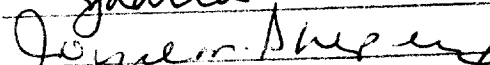
PUBLIC SAFETY &  
LEGAL ADMINISTRATION COMMITTEE

DATE 3/9/10

CHAR 







MAR 15 2010

ADVERSED BY  
CITY COUNCIL

MAR 15 2010



OFFICE OF MUNICIPAL CLERK

**RHONDA DAUPHIN JOHNSON**  
MUNICIPAL CLERK

March 19, 2010

55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6030  
FAX (404) 658-6273

Robert Witcher, Esq.  
Morris & Witcher  
Suite 414 1447 Peachtree Street  
Atlanta, Georgia 30309

**10-R-0451**

**RE: Atlanta Federation of Music**

Dear Mr. Witcher

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on March 15, 2010. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division at (404) 330-6400.**

Yours very truly,

  
Rhonda Dauphin Johnson CMC  
Municipal Clerk

**cc: Claims Division/Law Department**

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 08L0571

Date: February 2, 2010

Claimant /Victim ATLANTA FEDERATION OF MUSICIANS  
BY: (Atty) (Ins. Co.) ROBERT P. WITCHER, ESQ., MORRIS & WITCHER  
Address: SUITE 414, 1447 Peachtree Street, NE, Atlanta, Georgia 30309  
Subrogation: Claim for Property damage \$ unspecified Bodily Injury \$             
Date of Notice: 6/6/08 Method: Written, Proper X Improper             
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 1/22/08 Place: 551 Dutch Valley Road  
Department WATERSHED MANAGEMENT Bureau: Waste Water Treatment & Collection Office:             
Employee involved            Disciplinary Action:           

NATURE OF CLAIM: Claimant alleges it sustained damages from a sanitary sewer backup. However, the claimant has failed to provide sufficient information to support its claim.

### INVESTIGATION:

Statements: City employee            Claimant            Others            Written            Oral             
Pictures            Diagrams            Reports: Police            Dept Report X Other X  
Traffic citations issued: City Driver            Claimant Driver             
Citation disposition: City Driver            Claimant Driver           

### BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial             
Improper Notice            More than Six Months            Other X Damages reasonable             
City not involved            Offer rejected            Compromise settlement             
Repair/replacement by Ins. Co.            Repair/replacement by City Forces             
Claimant Negligent            City Negligent            Joint            Claim Abandoned X

Respectfully submitted,

  
INVESTIGATOR - GWENDOLYN BURNS

### RECOMMENDATION:

Pay \$            Adverse X Account charged: General Fund            Water & Sewer            Aviation             
Claims Manager:            Concur/date 02/22/10  
Committee Action:            Council Action

MORRISS & WITCHER  
A Professional Association

ATTORNEYS AT LAW  
SUITE 414, 1447 PEACHTREE STREET, NE  
ATLANTA, GEORGIA 30309  
Telefax (404) 872-2871  
Telephone (404) 881-1700

RECEIVED  
OFFICE OF  
MUNICIPAL CLERK

2008 JUN -6 AM 10:11

WINSTON H. MORRISS(1946-1994)  
ROBERT P. WITCHER, P.C.  
JEFFREY M. FLYNN, P.C.  
JEFFREY GOLOMB, P.C.

of counsel:  
GERALD L. TALANSKY

ENTERED - 6-23-08 - SB  
08L0571 - G. BURNS

May 29, 2008

BURNS  
06/23/08  
R

Council of the City of Atlanta  
Municipal Clerk  
City Hall  
55 Trinity Avenue, SW  
Atlanta, GA 30303

Re: Damages to Property of Atlanta Federation of Musicians,  
551 Dutch Valley Road, Atlanta, GA

Ladies and Gentlemen:

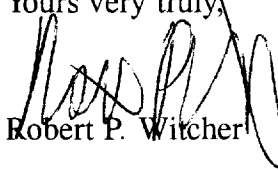
We have been retained to represent Atlanta Federation of Musicians regarding the above claim. Please find attached a letter from Shull & Kane, Inc. who are structural engineers pertaining to the above matter. The exact amount of damages to repair this property is currently being investigated but cannot be determined without a substantial amount of expense on behalf of our client because it would require digging down by the side of the foundation of my client's property. If necessary, this will be done within your six-month filing requirement for a claim. I am filing this claim earlier so that the City of Atlanta may have an opportunity to assist in determining the damages and minimize my client's claim, if possible.

When the sewer drain pipe ruptured, the appropriate department of the City of Atlanta made certain repairs. As part of the investigation, a certain type of camera was utilized by a City of Atlanta employee to investigate the interior condition of the remaining portion of the sewer pipe. Other investigations were also made.

I hereby request to obtain copies and photographic prints of all of these matters and, together with my client, meet with the person in charge of the sewer pipe repair. Hopefully, for both my client and the City of Atlanta, we may be able to determine from the repairs to the sewer pipe if the damages to the structure of the foundation of my client's property are minimal.

I will contact your office on or about June 10, 2008 (because I will be on vacation next week) to determine if we can obtain this information.

Yours very truly,

  
Robert P. Witcher

RPW/ay  
Enclosure

10- R -0451

RCS# 124  
3/15/10  
2:18 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

ADOPT

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 1  
EXCUSED: 0  
ABSENT 2

Y Smith	Y Archibong	Y Moore	Y Bond
B Hall	Y Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	B Sheperd	NV Mitchell

CONSENT I